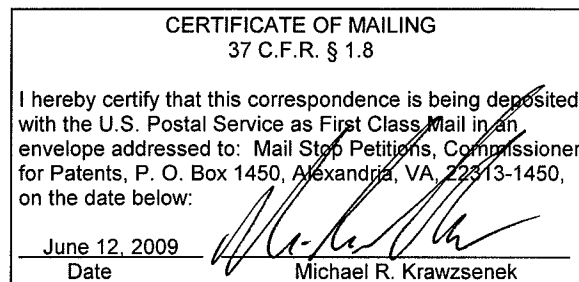


PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Title ABSORBENT HYDROPHOBIC BORONATE GALACTOMANNAN
 COMPLEXESES AND PROCESS FOR PRODUCING SAME

Appl. No. 10/596,578
Applicant Couffin *et al.*
Filed June 16, 2006
TC/A.U. 3761
Examiner Not Yet Assigned
Docket No. BRKP:025US
Customer No. 32425



**PETITION TO WITHDRAW HOLDING
OF ABANDONMENT UNDER 37 CFR § 1.181(a)**

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant files this Petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment in the above-referenced application. No fees are believed to be due. However, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials (which would be improper given that the abandonment of the above-referenced application is improper), the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/BRKP:025US.

The following facts supports the granting of this Petition.

A. The Time Period for Filing a Response to the Decision on Petition Has Not Expired

A Notice of Abandonment was issued in the present case on June 4, 2009 (Tab A). It was improper for the USPTO to issue this Notice, as Applicant has until October 18, 2009, to file a response to the Decision on Petition. The following paragraphs provide factual support for Applicant's position that the Notice of Abandonment should be withdrawn immediately.

On February 6, 2009, Applicant filed a response to the Notice to File Missing Parts (Tab B). The response included a Petition for Non-Signing Inventor (Mohammed Berrada) pursuant to 37 C.F.R. 1.47(a).

On March 18, 2009, the USPTO issued a Decision on Petition dismissing without prejudice Applicant's Petition for Non-Signing Inventor (Tab C). The Decision states that the time period for filing a response is two months and that "[e]xtensions of time **are available under 37 CFR 1.136(a).**" Decision at page 3 (emphasis added). Below is a digital image of the relevant paragraph from the Decision:

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Id.

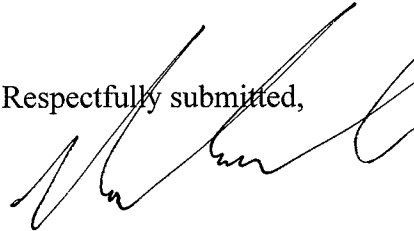
Therefore, Applicant has until October 18, 2009, to file a response to the Decision pursuant to 37 CFR 1.136(a). In fact, Applicant's representative, Michael R. Krawzsenek, confirmed with PCT Legal Examiner Bryan Lin *via* telephone on May 15, 2009, that up to five months of extensions of time were available to file a response in view of Decision's explicit statement that "[e]xtensions of time **are available under 37 CFR 1.136(a).**"

B. Conclusion

The above evidence is sufficient to support the present Petition. Therefore, Applicant requests that the USPTO grant the Petition to withdraw the holding of abandonment and to confirm that Applicant has until October 18, 2009, to file a response to the March 18, 2009 Decision on Petition.

Please call Michael Krawzsenek at 512.536.3020 with any questions or comments concerning the filing of this document.

Respectfully submitted,



Michael R. Krawzsenek
Reg. No. 51,898
Attorney for Applicant

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
512.536.3020 (voice)
512.536.4598 (fax)

Date: June 12, 2009

TAB A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/596,578		Anne-Claude Couffin	BRKP:025US/10607837

CONFIRMATION NO. 8020

ABANDONMENT/TERMINATION
LETTER



32425
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Date Mailed: 06/04/2009

NOTICE OF ABANDONMENT

Decision on Petition

The above-identified application is **abandoned** for failure to timely reply to the Decision on Petition mailed on 03/18/2009.

If a complete reply to the petition decision was previously filed by applicant within the time period set forth in the petition decision, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or
3. If the reply was filed via "Express Mail," a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the "Express Mail" mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the petition decision, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571)-272-3282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

/lmhunter/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

TAB B

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Anne-Claude COUFFIN *et al.*

Serial No.: 10/596,578

Filed: June 16, 2006

For: ABSORBENT HYDROPHOBIC
BORONATE GLACTOMANNAN
COMPLEXES AND PROCESS FOR
PRODUCING SAME

Group Art Unit: 3761

Examiner: Not Yet Assigned


Atty. Dkt. No.: BRKP:025US

Confirmation No.: 8020

CERTIFICATE OF ELECTRONIC TRANSMISSION
37 C.F.R. § 1.8

I hereby certify that this correspondence is being
electronically filed with the United States Patent and
Trademark Office via EFS-Web on the date below:

February 6, 2009
Date


Charles P. Landrum

RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C.
371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

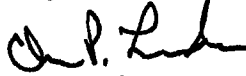
In response to the Notification of Missing Requirements under 35 U.S.C. 371 in the
United States Designated/Elected Office (DO/EO/US), dated July 8, 2008, there are enclosed
herewith:

- (a) Declaration executed by Anne-Claude COUFFIN, André LAFOREST, and
Nicolas NOURRY;
- (b) A Petition for Non-Signing Inventor (Mohammed BERRADA);

- (c) A Declaration of Michael R. Krawzsenek with Exhibits A-P;
- (d) Our payment via credit card in the amount of \$2,636.00 to cover the surcharge for late filing (\$130.00); additional claims fee (\$156.00); five month extension of time fee (\$2,350);
- (e) A copy of Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US); and
- (f) A Request for Extension of Time of five months to and including February 8, 2009. Should such request be absent, consider this such a request and authorization to withdraw the appropriate fee under 37 C.F.R. §§ 1.16 to 1.21 as stated below.

The required fees in the amount of \$2,636.00 in connection with the filing of this paper are being charged to a credit card through EFS-Web concurrently with this submission. The Commissioner is hereby authorized to deduct any underpayment of fees or any additional fees required under 37 C.F.R. §§ 1.16 to 1.21 in connection with the filing of this paper from Fulbright & Jaworski Deposit Account No.: 50-1212/BRKP:025US.

Respectfully submitted,

 Pg. No. 46,855
for

Michael R. Krawzsenek
Reg. No. 51,898
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 474-5201

Date: February 6, 2009



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/596,578	Anne-Claude Couffin	BRKP:025US/10607837
INTERNATIONAL APPLICATION NO.		
PCT/CA2006/000772		
I.A. FILING DATE		PRIORITY DATE
05/12/2006		05/12/2005

32425
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

CONFIRMATION NO. 8020
371 FORMALITIES LETTER



OC000000030787857

Date Mailed: 07/08/2008

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371
IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Priority Document
- Copy of the International Application filed on 06/16/2006
- Preliminary Amendments filed on 06/16/2006
- Information Disclosure Statements filed on 06/21/2007
- Request for Immediate Examination filed on 06/16/2006
- U.S. Basic National Fees filed on 06/16/2006
- Priority Documents filed on 06/16/2006

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of **\$150** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$280** for a Large Entity:

- **\$130** Surcharge.

Total additional claim fee(s) for this application is **\$150**

- **\$150** for 3 total claims over 20.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.

<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

LAMONT M HUNTER

Telephone: (703) 308-9140 EXT 201

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Anne-Claude COUFFIN *et al.*

Serial No.: 10/596,578

Filed: June 16, 2006

For: ABSORBENT HYDROPHOBIC
BORONATE GLACTOMANNAN
COMPLEXES AND PROCESS FOR
PRODUCING SAME

Group Art Unit: 3761

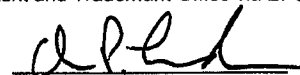
Examiner: Unknown

Atty. Dkt. No.: BRKP:025US

**CERTIFICATE OF ELECTRONIC TRANSMISSION
37 C.F.R. § 1.8**

I hereby certify that this correspondence is being electronically filed
with the United States Patent and Trademark Office via EFS-Web
on the date below:

February 6, 2009
Date


Charles P. Landrum

PETITION UNDER 37 C.F.R. § 1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants hereby petition under 37 C.F.R. § 1.47(a) to prosecute the above-identified application for patent without the consent of one of the inventors. Inventor Mohammed Berrada has refused to sign the declaration under 37 C.F.R. § 1.63. The Declaration of Charles P. Landrum sets forth the evidence that Mohammed Berrada received the Declaration and refuses to sign the Declaration.

The most recent address that we have for the inventor, Mohammed Berrada is:

2381 Asselin

Longueuil, Québec J4M 2M5

CANADA

Pursuant to 37 C.F.R. § 1.17(g), the required fee in the amount of \$200.00 in connection with the filing of this paper is being charged to a credit card through EFS-Web concurrently with this submission. The Commissioner is hereby authorized to deduct any underpayment of fees or any additional fees required under 37 C.F.R. § 1.16 to 1.21 in connection with the filing of this paper from Fulbright & Jaworski Deposit Account No. 50-1212/BRKP:025US.

Respectfully submitted,



Charles P. Landrum
Reg. No. 46,855
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 474-5201

Date: February 6, 2009

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Anne-Claude COUFFIN *et al.*

Serial No.: 10/596,578

Filed: June 16, 2006

For: ABSORBENT HYDROPHOBIC
BORONATE GLACTOMANNAN
COMPLEXES AND PROCESS FOR
PRODUCING SAME

Group Art Unit: 3761

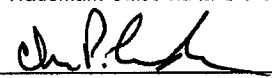
Examiner: Not Yet Assigned

Atty. Dkt. No.: BRKP:025US

CERTIFICATE OF ELECTRONIC TRANSMISSION
37 C.F.R. § 1.8

I hereby certify that this correspondence is being electronically filed
with the United States Patent and Trademark Office via EFS-Web
on the date below:

February 6, 2009
Date


Charles P. Landrum

DECLARATION OF CHARLES P. LANDRUM

I, Charles P. Landrum, hereby declare as follows:

1. I am a patent attorney registered before the United States Patent and Trademark Office, Reg. No. 46,855.
2. I am one of the attorneys from Fulbright & Jaworski prosecuting U.S. Application No. 10/596,578.
3. I am submitting this declaration under 37 C.F.R. 1.47 to establish that one of the named inventors, Mohammed Berrada, has refused to sign the inventor declaration.
4. On July 28, 2006 a copy of the above-referenced application (including the specification, claims, and figures) was sent to Erwin Schultz, Ph.D., a Canadian patent agent

with BCF, LLP acting as the agent for Archer-Daniels-Midland Company, the Assignee for the present application.

5. Staff of Fulbright & Jaworski Austin office (project assistants Collin Evans, Jennifer Trumpler, and Richard Ortiz) sent a number of correspondence to Erwin Schultz, Ph.D. related to execution of the Declaration and Assignment documents, including transmitting the Declaration and Assignment for execution by all inventors and subsequent reminders for return of the executed Declaration and Assignment. Exhibit A-Exhibit O.

6. I spoke with Erwin Schultz, Ph.D. via telephone on February 5, 2009 wherein Erwin Schultz, Ph.D. told me that Mohammed Berrada refuses to sign the Declaration.

7. Richard Ortiz, a project assistant at Fulbright & Jaworski, sent Erwin Schultz an e-mail requesting the partially executed Declaration for submission in response to the Notification of Missing Requirements. Exhibit P.

8. Erwin Schultz sent Richard Ortiz an e-mail transmitting the Declaration executed by all inventors except Mohammed Berrada. He also confirmed that Mohammed Berrada refuses to execute Declaration and Assignment. Exhibit Q.

9. I hereby declare that all statements made of my own knowledge are true and all statements made on information are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 474-5201

Date: February 6, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. P. Landrum", written in a cursive style.

Charles P. Landrum
Reg. No. 46,855
Attorney for Applicants

TAB C



UNITED STATES PATENT AND TRADEMARK OFFICE

18 MAR 2009

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

In re Application of COUFFIN et al
U.S. Application No.: 10/596,578
PCT Application No.: PCT/CA2006/000772
Int. Filing Date: 12 May 2006
Priority Date Claimed: 12 May 2005
Attorney Docket No.: BRKP:025US
For: ABSORBENT HYDROPHOBIC
BORONATE GALACTOMANNAN COMPLEXES
AND PROCESS FOR PRODUCING SAME

DECISION

This is in response to applicant's petition under 37 CFR 1.47(a) filed 06 February 2009.

BACKGROUND

On 12 May 2006, applicant filed international application PCT/CA2006/000772, which claimed priority of an earlier Canada application filed 12 May 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 16 November 2006. The thirty-month period for paying the basic national fee in the United States expired on 12 November 2007.

On 16 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 July 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 February 2009, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Mohammed Berrada refuses to sign the application papers. Although the affidavit of Charles Landrum states that the application papers were sent to Erwin Schultz, there is no evidence based on firsthand knowledge that Mr. Berrada received the application papers from Dr. Schultz. Furthermore, an affidavit from the person to whom Mr. Berrada's purported refusal to sign was made has not been provided. Such affidavit must specify the circumstances of the refusal. Thus, it would not be reasonable to conclude at the present time that Mr. Berrada refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303

Facsimile: 571-273-0459